

§§ 284.103–284.106 [Reserved]

**Subpart C—Certain Transportation by Intrastate Pipelines****§ 284.121 Applicability.**

This subpart implements section 311(a)(2) of the NGPA and applies to the transportation of natural gas by any intrastate pipeline on behalf of:

- (a) Any interstate pipeline, or
- (b) Any local distribution company served by any interstate pipeline.

**§ 284.122 Transportation by intrastate pipelines.**

(a) Subject to paragraph (d) of this section, other provisions of this subpart, and the applicable conditions of Subpart A of this part, any intrastate pipeline may, without prior Commission approval, transport natural gas on behalf of:

- (1) Any interstate pipeline; or
- (2) Any local distribution company served by an interstate pipeline.

(b) No rate charged for transportation authorized under this subpart may exceed a fair and equitable rate under § 284.123.

(c) Any intrastate pipeline engaged in transportation arrangements authorized under this section must file reports as required by § 284.126.

(d) Transportation of natural gas is not on behalf of an interstate pipeline or local distribution company served by an interstate pipeline or authorized under this section unless:

- (1) The interstate pipeline or local distribution company has physical custody of and transports the natural gas at some point; or
- (2) The interstate pipeline or local distribution company holds title to the natural gas at some point, which may occur prior to, during, or after the time that the gas is being transported by the intrastate pipeline, for a purpose related to its status and functions as an interstate pipeline or its status and functions as a local distribution company.

[Order 436, 50 FR 42495, Oct. 18, 1985, as amended by Order 537, 56 FR 50245, Oct. 4, 1991; Order 537–A, 57 FR 46501, Oct. 9, 1992; Order 581, 60 FR 53073, Oct. 11, 1995; Order 756, 77 FR 4894, Feb. 1, 2012]

**§ 284.123 Rates and charges.**

(a) *General rule.* Rates and charges for transportation of natural gas authorized under § 284.122(a) shall be fair and equitable as determined in accordance with paragraph (b) of this section.

(b) *Election of rates.* (1) Subject to the conditions in §§ 284.7 and 284.9 of this chapter, an intrastate pipeline may elect to:

- (i) Base its rates upon the methodology used:

(A) In designing rates to recover the cost of gathering, treatment, processing, transportation, delivery or similar service (including storage service) included in one of its then effective firm sales rate schedules for city-gate service on file with the appropriate state regulatory agency; or

(B) In determining the allowance permitted by the appropriate state regulatory agency to be included in a natural gas distributor's rates for city-gate natural gas service; or

(ii) To use the rates contained in one of its then effective transportation rate schedules for intrastate service on file with the appropriate state regulatory agency which the intrastate pipeline determines covers service comparable to service under this subpart.

(2)(i) If an intrastate pipeline does not choose to make any election under paragraph (b)(1) of this section, it shall apply for Commission approval, by order, of the proposed rates and charges by filing with the Commission the proposed rates and charges, and information showing the proposed rates and charges are fair and equitable. Each petition for approval filed under this paragraph must be accompanied by the fee set forth in § 381.403 or by a petition for waiver pursuant to § 384.106 of this chapter. Upon filing the petition for approval, the intrastate pipeline may commence the transportation service and charge and collect the proposed rate, subject to refund.

(ii) 150 days after the date on which the Commission received an application filed pursuant to paragraph (b)(2)(i) of this section, the rate proposed in the application will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for providing similar transportation

service, unless within the 150 day period, the Commission either extends the time for action, or institutes a proceeding in which all interested parties will be afforded an opportunity for written comments and for the oral presentation of views, data and arguments. In such proceeding, the Commission either will approve the rate or disapprove the rate and order refund, with interest, of any amount which has been determined to be in excess of those shown to be fair and equitable or in excess of the rates and charges which interstate pipelines would be permitted to charge for providing similar transportation service.

(iii) A Commission order approving or disapproving a transportation rate under this paragraph supersedes a rate determined in accordance with paragraph (b)(1) of this section.

(c) *Treatment of revenues.* The Commission presumes that all revenues received by an intrastate pipeline in connection with transportation authorized under § 284.122(a) and computed in accordance with paragraph (b)(1) of this section have been or will be taken into account by the appropriate state regulatory agency for purposes of establishing transportation charges by the intrastate pipeline for service to intrastate customers.

(d) *Presumptions.* If the intrastate pipeline is charging a rate computed pursuant to § 284.123(b)(1), the rate charged is presumed to be:

- (1) Fair and equitable; and
- (2) Not in excess of the rates and charges which interstate pipelines would be permitted to charge for providing similar transportation service.

(e) *Filing requirements.* Within 30 days of commencement of new service, any intrastate pipeline that engages in transportation arrangements under this subpart must file with the Commission a statement that includes the pipeline's interstate rates, the rate election made pursuant to paragraph (b) of this section, and a description of how the pipeline will engage in these transportation arrangements, including operating conditions, such as quality standards and financial viability of the shipper. If the pipeline changes its operations, rates, or rate election under this subpart, it must amend the

statement and file such amendments not later than 30 days after commencement of the change in operations or the change in rate election.

(f) *Electronic filing of statements, and related materials*—(1) *General rule.* All filings made in proceedings initiated under this part must be made electronically, including rates and charges, or parts thereof, and material related thereto, statements, and all workpapers.

(2) *Requirements for signature.* All filings must be signed in compliance with the following:

(i) The signature on a filing constitutes a certification that the contents are true to the best knowledge and belief of the signer, and that the signer possesses full power and authority to sign the filing.

(ii) A filing must be signed by one of the following:

(A) The person on behalf of whom the filing is made;

(B) An officer, agent, or employee of the company, governmental authority, agency, or instrumentality on behalf of which the filing is made; or,

(C) A representative qualified to practice before the Commission under § 385.2101 of this chapter who possesses authority to sign.

(iii) All signatures on the filing or any document included in the filing must comply, where applicable, with the requirements in § 385.2005 of this chapter with respect to sworn declarations or statements and electronic signatures.

(3) *Format requirements for electronic filing.* The requirements and formats for electronic filing are listed in instructions for electronic filing and for each form. These formats are available on the Internet at <http://www.ferc.gov> and can be obtained at the Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Washington, DC 20426.

(g) *Election of Notice Procedures.* (1) *Applicability.* An intrastate pipeline filing for approval of rates, a statement of operating conditions, and any amendments or modifications thereto pursuant to this section may use the notice procedures in this paragraph. Any intrastate pipeline electing to use these notice procedures for a filing

must clearly state its election to use these procedures in the filing. Such filing is approved and the rates deemed fair and equitable and not in excess of the amount that an interstate pipeline would be permitted to charge for similar transportation service if the requirements in paragraph (g)(8) of this section have been fulfilled.

(2) *Rejection of filing.* The Director of the Office of Energy Market Regulation or his designee shall reject within 7 days of the date of filing a request which patently fails to comply with the provisions of paragraph (e) or (f) of this section, without prejudice to the intrastate pipeline refile a complete application. If such filing was required by this section, that filing must be refiled within 14 days of the date of the rejection.

(3) *Publication of notice of filing.* The Secretary of the Commission shall issue a notice of the filing within 10 days of the date of the filing, which will then be published in the FEDERAL REGISTER. The notice shall designate a deadline for filing interventions, initial comments, final comments, and protests to the filing. The deadline for interventions and initial comments shall be 21 days after the date of the filing or such other date established by the Secretary of the Commission. The deadline for final comments and protests shall be 60 days after the date of the filing or such other date established by the Secretary of the Commission.

(4) *Protests.* (i) Any person or the Commission's staff may file a protest prior to the deadline for protests.

(ii) Protests shall be filed with the Commission in the form required by Part 385 of this chapter including a detailed statement of the protestor's interest in the filing and the specific reasons and rationale for the objection and whether the protestor seeks to be an intervenor.

(5) *Effect of protest.* If a protest is filed in accordance with paragraph (g)(4) of this section, then the intrastate pipeline, the person who filed the protest, any intervenors and Commission staff shall have 30 days from the deadline for filing protests established by the Secretary of the Commission in accordance with paragraph (g)(3) of

this section, to resolve the protest, and to file a withdrawal of the protest pursuant to paragraph (g)(6) of this section. Informal settlement conferences may be convened by the Director of the Office of Energy Market Regulation or his designee during this 30 day period. If a protest is not withdrawn or dismissed by end of that 30 day period, the filing shall not be deemed approved pursuant to this paragraph. Within 60 days from the deadline for filing protests established by the Secretary of the Commission in accordance with paragraph (g)(3) of this section the Commission will establish procedures to resolve the proceeding.

(6) *Withdrawal of protests.* The protestor may withdraw a protest by submitting written notice of withdrawal to the Secretary of the Commission pursuant to § 385.216 of this chapter and serving a copy on the intrastate pipeline, any intervenors, and any person who has filed a motion to intervene in the proceeding.

(7) *Amendments or modifications to tariff records prior to approval.* An intrastate pipeline may file to amend or modify a tariff record contained in the initial filing pursuant to the procedures under this paragraph (g) which has not yet been approved pursuant to paragraph (g)(8) of this section. Such filing will toll the notice period established in paragraph (g)(3) of this section and the Secretary of the Commission will issue a notice establishing new deadlines for comments and protests for the entire filing pursuant to paragraph (g)(3).

(8) *Final approval.* (i) If no protest is filed within the time allowed by the Secretary of the Commission under paragraph (g)(3) of this section, the filing by the intrastate pipeline is approved, effective on the date proposed in the filing requesting approval unless the intrastate pipeline withdraws, amends, or modifies its filing or the filing is rejected pursuant to paragraph (g)(2) of this section.

(ii) If any protest is filed within the time allowed by the Secretary of the Commission under paragraph (g)(3) of this section and is subsequently withdrawn before the end of the 30-day reconciliation period provided by paragraph (g)(5) of this section, the filing

by the intrastate pipeline is approved effective on the date proposed in the filing requesting approval unless the intrastate pipeline withdraws, amends, or modifies its filing or the filing is rejected pursuant to paragraph (g)(2) of this section.

(9) *Periodic rate review.* Rates of pipelines approved by the Commission pursuant to this paragraph are required to be periodically reviewed.

(i) Any intrastate pipeline with rates so approved must file an application for rate approval under this section on or before the date five years following the date it filed the application for authorization of rates pursuant to this paragraph. Any Hinshaw pipeline that has been granted a blanket certificate under § 284.224 of this chapter and with rates approved pursuant to this paragraph must on or before the date five years following the date it filed the application for authorization of the rates pursuant to this paragraph either file under this section cost, throughput, revenue and other data, in the form specified in § 154.313 of this chapter, to allow the Commission to determine whether any change in rates is required pursuant to section 5 of the Natural Gas Act or an application for rate authorization pursuant to this section.

(ii) An intrastate pipeline with rates approved pursuant to the rate election in paragraph (b)(1) of this section that remain unchanged during the five-year review period which were approved based on then effective state rates may file a certification with the Commission pursuant to this paragraph (g) that the rates continue to comply on the same basis with the requirements set forth in paragraph (b)(1) of this section. Such certification of rates will meet the periodic rate review requirement set forth in this paragraph (g)(9) unless the Commission determines that further proceedings concerning the rates are appropriate.

(iii) If the state rate used pursuant to paragraph (b)(1) of this section for approval of a rate pursuant to this paragraph (g) is changed, not later than 30 days after that changed rate becomes effective, the intrastate pipeline must file a new rate election pursuant to paragraph (b) of this section.

(10) *Withdrawal of filing prior to approval.* A pipeline may, pursuant to paragraph (h) of this section, withdraw in its entirety a filing made pursuant to paragraph (g) that has not been approved by filing a withdrawal motion with the Commission. A filing that is withdrawn will not fulfill the requirements under paragraph (g)(8) of this section.

(h) *Withdrawal of filing.* A pipeline may withdraw in its entirety a filing pursuant to this section that has not been approved by filing a withdrawal motion with the Commission.

(1) The withdrawal motion must state that any amounts collected subject to refund in excess of the rates authorized the Commission will be refunded with interest calculated and a refund report filed with the Commission in accordance with § 154.501 of this chapter. The refunds must be made within 60 days of the date the withdrawal motion becomes effective.

(2) The withdrawal motion will become effective, and the filing will be deemed withdrawn at the end of 15 days from the date of filing of the withdrawal motion, if no order disallowing the motion is issued within that period. If an answer in opposition is filed within the 15-day period, the withdrawal is not effective until an order accepting the withdrawal is issued.

[44 FR 52184, Sept. 7, 1979, as amended at 44 FR 66791, Nov. 21, 1979; Order 394, 49 FR 35364, Sept. 7, 1984; Order 436, 50 FR 42496, Oct. 18, 1985; 50 FR 52276, Dec. 23, 1985; Order 581, 60 FR 53073, Oct. 11, 1995; Order 714, 73 FR 57535, Oct. 3, 2008; Order 781, 78 FR 45862, July 30, 2013]

#### § 284.124 Terms and conditions.

Contracts for the transportation of natural gas authorized under this subpart shall provide that the transportation arrangement is subject to the provisions of this subpart.

#### § 284.125 [Reserved]

#### § 284.126 Reporting requirements.

(a) *Notice of bypass.* An intrastate pipeline that provides transportation (except storage) under § 284.122 to a customer that is located in the service area of a local distribution company